

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons asserted in the Amendment and Reply filed March 18, 2009.

Claims 1-36 were previously pending. By way of the present amendment, Applicant has canceled claims 1-36 and added new claims 37-72. It is noted that new claims 37-48 are based on previously pending claims 1, 2, 4-13, respectively. Thus, claims 37-72 are presented for consideration.

Newly added claims 49-60 are, drawn to a program product and claims 61-72 are drawn to a system. These claims include features corresponding substantially to those recited in method claims 37-48.

Amendments made in Response to Non-Compliant Amendment Notice

As noted above, Applicant has canceled previously pending claims 1, 2, 4-13 and rewritten them as new claims, thereby addressing the inadvertent non-compliance noted in the Notice. Applicant has further made minor revisions to the claims as compared to the previously submitted reply in order to improve the language of the claims.

Claim Objections

The Office Action objected to claims 7 and 13 based on a suggested change to the claim language. Applicant has adopted this suggestion in newly added claims 42 and 48.

The Office Action objected to claim 14 under 37 CFR 1.75(c) as being of improper dependent form. In order to advance prosecution, Applicant has canceled claim 14.

In view of the foregoing, it is submitted that all objections to the claims are overcome or rendered moot.

Rejection under § 101

The Office Action rejected claims 31-36 under 35 USC § 101. Applicant has canceled claims 31-36 in order to advance prosecution. Accordingly, this rejection is rendered moot.

Rejection under § 102(a)

The Office Action also rejected claims 31, 35 and 36 under 35 USC § 102(a) as anticipated by Stewart et al, US Published Application No. 2002/0152110A1 ("Stewart"). This rejection is also rendered moot in view of the cancellation of these claims.

Rejection under § 103(a)

The Office Action rejected claims 1-5, 9, 11-21 25, 27-30, and 32-34 under § 103(a) as being unpatentable over Stewart in view of Herz, U.S. Patent No. 6,029,195. Applicant respectfully traverses this rejection.

The present invention as reflected in the pending claims provides a unique system and method for assessing and developing a “product”, which may broadly include a variety of methods, services, or articles, either pre-existing or new. While prior methods exist for seeking respondent feedback on various products, such prior methods often fail to obtain respondents’ views in an objective manner absent time-consuming and expensive sampling methods.

According to one aspect of the invention reflected in the present claims, the respondent is prompted to identify an existing product, which the respondent then rates on a metric scale. The respondent’s rating provides a baseline, referred to in the specification as a “metric anchor.” This feature facilitates gathering of valid and replicable data from the respondent. It permits the respondent to articulate his or her baseline experience on an objective basis. This baseline is then used to rate a different product, from which valid data concerning the second product may be obtained.

According to other aspects of the invention, the respondent may identify an additional product that serves as a baseline. (See claim 38). According to another aspect, the respondent is prompted to revalidate his or her prior rating after receiving additional information. (See claim 39.) Other specific features are recited in the remaining dependent claims.

The Office Action relies principally on Stewart as allegedly teaching various features of the invention as previously claimed. According to the Office Action, this includes Stewart’s teaching of a rating for one subject as described at paragraphs 0072-74. However, there is no teaching or suggestion in Stewart of prompting the respondent to identify an existing product, which then may provide a baseline for rating a second different product. Stewart does disclose a technique by which a respondent can select from various graphical depictions of existing products, but it does not disclose prompting the respondent to identify a preexisting product that is then rated, from which rating the user then rates a second product along a metric scale.

Indeed, the Office Action acknowledges that Stewart fails to disclose displaying a visual indicator along a scale corresponding to a different product. While the Office Action relies on Herz as teaching this feature, Applicant respectfully submits that the general disclosure of a sliding bar or indicator as provided in Herz fails to provide a teaching or suggestion of the rating of a second, different product using a metric anchor, in the specific manner reflected in the present claims. Accordingly, the cited combination fails to include all the features of the present invention.

Conclusion

In view of the foregoing, Applicant submits that the claims are patentable and the application is in condition for allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that doing so would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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